

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

CR 11-87-GF-BMM

Plaintiff,

vs.

**FINDINGS AND
RECOMMENDATIONS TO
REVOKE DEFENDANT'S
SUPERVISED RELEASE**

DAVID LEE SPOTTED EAGLE,

Defendant.

I. Synopsis

The United States accused Mr. Spotted Eagle of violating his conditions of supervised release by (1) smoking spice, and (2) failing to reside in a Residential Reentry Center. His supervised release should be revoked. He should be sentenced to nine months in custody, with no supervised release to follow.

II. Status

United States District Judge Sam Haddon sentenced Mr. Spotted Eagle to

fifty-seven months in custody, with thirty-six months of supervised release to follow, on March 7, 2012, after a he pleaded guilty to Assault Resulting in Serious Bodily Injury. (Doc. 31.)

United States District Judge Brian Morris revoked Mr. Spotted Eagle's supervised release on February 29, 2017, because he absconded from supervision, failed to notify his probation officer of a change in his employment, failed to submit to a random urinalysis, and failed to appear for a scheduled appointment with his probation officer. (Doc. 52.) Judge Morris sentenced Mr. Spotted Eagle to three months in custody followed by thirty-three months of supervised release. (*Id.*) Mr. Spotted Eagle began his next term of supervised release on May 2, 2016.

Judge Morris again revoked Mr. Spotted Eagle's supervised release on July 27, 2016, because he failed to report to the Probation Office following his release from custody. (Doc. 64.) Judge Morris sentenced him to four months in custody followed by twenty-nine months of supervised release. (*Id.*)

Judge Morris revoked Mr. Spotted Eagle's supervised release for a third time on October 17, 2016, because he failed to report to the Probation Office following his release from custody. (Doc. 76.) Judge Morris sentenced him to six months in custody followed by twenty-three months of supervised release, with the condition that he complete a six-months program at the Great Falls Prerelease Center. (*Id.*)

Mr. Spotted Eagle began his current term of supervised release on March 24, 2017.

Petition

The Probation Office filed a Petition for Warrant for Offender Under Supervision on April 10, 2017, alleging that Mr. Spotted Eagle violated the terms of his supervised release by (1) smoking spice, and (2) failing to reside in a Residential Reentry Center. (Doc. 78.) Judge Morris issued a warrant for his arrest based on the allegations in the petition. (Doc. 79.)

Initial appearance

Mr. Spotted Eagle appeared before the undersigned on April 24, 2017, in Great Falls, Montana. Federal Defender Hank Branom accompanied him. Assistant United States Attorney Jessica Betley represented the United States.

Mr. Spotted Eagle said he had read the petition and understood the allegations. He waived the preliminary hearing, and the parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

Mr. Spotted Eagle admitted to the allegations. The violations are serious and warrant revocation of his supervised release.

Mr. Spotted Eagle's violation grade is Grade C, his criminal history category is I, and his underlying crime is a Class C felony. He could be incarcerated for up

to twenty-four months. The United States Sentencing Guidelines call for three to nine months in custody.

Mr. Branom recommended a sentence at the high-end of the guideline range, with no supervised release to follow. Ms. Betley agreed with Mr. Branom's recommendation. Mr. Spotted Eagle exercised his right of allocution and stated that he wanted to get treatment in Browning, Montana.

III. Analysis

Mr. Spotted Eagle's supervised release should be revoked because he admitted violating its conditions. He should be sentenced to nine months in custody, with no supervised release to follow. This sentence would be sufficient given the seriousness of the violations but not greater than necessary.

IV. Conclusion

Mr. Spotted Eagle was advised that the above sentence would be recommended to Judge Morris. He waived his right to appeal the sentence.

The undersigned **FINDS:**

David Lee Spotted Eagle violated the conditions of his supervised release by (1) smoking spice, and (2) failing to reside in a Residential Reentry Center.

The undersigned **RECOMMENDS:**

The district court should enter the attached Judgment,

revoking Mr. Spotted Eagle's supervised release and committing him to the custody of the United States Bureau of Prisons for nine months, with no supervised release to follow.

Dated this 3rd day of May, 2017.



John Johnston
United States Magistrate Judge